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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,458	01/23/2002	Christopher Pasqualino	13316US02	1287
23446	7590	02/19/2008	EXAMINER	
MCANDREWS HELD & MALLOY, LTD			WONG, WARNER	
500 WEST MADISON STREET				
SUITE 3400			ART UNIT	PAPER NUMBER
CHICAGO, IL 60661			2616	
MAIL DATE		DELIVERY MODE		
02/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/057,458	PASQUALINO, CHRISTOPHER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Warner Wong	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 January 2008.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6-20 is/are pending in the application.
  - 4a) Of the above claim(s) 6-19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Election/Restrictions***

1. Newly submitted claim 6 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: original claim 6 describes an invention requiring a preceding uncompressed frame, whereas the amended claim 6 describes another invention requiring no dropping of video frames.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 6 and its dependent claims are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Hobbs (US 5,751,366).

Hobbs describes a system for communicating data and auxiliary data over a video communications link, comprising:

a reformatter for shortening a blanking period in the data to accommodate auxiliary data, thereby forming new video frames (fig. 7 & col. 4, lines 38-39, FPGA shortens a blanking period (fig. 2-5, col. 3, lines 14-20, shortening the horizontal sync pulse during the horizontal blanking period) to accommodate aux data of audio to the video frames formed by Video A/D 30),

a transmitter for communicating with said reformatter and transmitting said video frame over the communications link (fig. 7 & col. 4, lines 62-64, inherent transmitter for transmission of the video signals as stated), wherein frequency of the new video frames after shortening the blanking period is the same as frequency of the video frames prior to shortening the blanking period (col. 1, line 65 – col. 2, line 1, the undropped frame is uncompressed (i.e. changes in sampling rate frequency, see frequency definition at col. 3, line 30) when inserting into the blanking period which is shortened).

### ***Response to Arguments***

3. Applicant's arguments filed 1/14/08 have been fully considered but they are not persuasive.

On p. 4 paragraph 4, the applicant concedes: "If in Hobbs, 'one of four single frames are being transmitted [i.i., undropped] under the AFD scheme' .. then Hobbs does teach 'wherein frequency of the new video frames after shortening the blanking period is the same as frequency of the video frame's prior to shortening the blanking period.'" Accordingly, the Hobbs reference describes the added limitations of amended claim 20.

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dinsel (US 5,325,127) describing transmitting sound data in TV channel, Gibson (US 5,063,446) describing transmitting auxiliary signal in a TV channel), Baer (US 4,875,096) describing encoding of audio and digital signals in a video signal.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Warner Wong whose telephone number is 571-272-8197. The examiner can normally be reached on 6:30AM - 3:00PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on 571-272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Warner Wong  
Examiner  
Art Unit 2616

WW

KWANG BIN YAO  
SUPERVISORY PATENT EXAMINER

